



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/673,738	10/20/2000	Fumio Takahashi	Q61378	3763

7590 02/05/2003

Sughrue Mion Zinn Macpeak & Seas
Suite 800
2100 Pennsylvania Avenue NW
Washington, DC 20037-3213

EXAMINER

MAKI, STEVEN D

ART UNIT	PAPER NUMBER
----------	--------------

1733

DATE MAILED: 02/05/2003

15

Please find below and/or attached an Office communication concerning this application or proceeding.

AS-15

Office Action Summary	Applicati n No.		Applicant(s)	
	09/673,738		TAKAHASHI, FUMIO	
	Examiner		Art Unit	
	Steven D. Maki		1733	

-- The MAILING DATE of this communication appears n the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 November 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-22 is/are pending in the application.
- 4a) Of the above claim(s) 1 and 3-7 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 26 November 2002 is: a) ☒ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 1733

1) The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Marriott

3) **Claims 8-20 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Marriott (US 6386253).**

Marriott is applied as in paragraph 7 of the last office action (paragraph 7 of the last office action is incorporated herein by reference).

Art Unit: 1733

Marriott remains available as prior art under 35 USC 102(e) because applicant is not entitled to the benefit of the foreign priority date of applicant's foreign priority document 11-43208. In other words, the 102(e) date of Marriott has not been overcome because applicant is not entitled to the benefit of the foreign priority date. It is acknowledged that the certified copy of the priority document 11-43208 has been received. It is also acknowledged that the certified English translation of 11-43208 filed 11-26-02 has been received. However, applicant is not entitled to the benefit of the foreign priority date of 11-43208 because the limitation in claim 8 of "a peripheral protuberant portion is formed on a tread surface of each block in the vicinity of an end edge thereof in such a manner that the height of the block gradually decreases toward the block end edge and also toward a central portion of the block" is not supported by the certified English language translation of 11-43208. The chamfer portion is described in the certified English language translation of 11-43208, but the protuberant portion is not described in the certified English language translation of 11-43208. Applicant's priority document is directed to the subject matter of non-elected Group I (non-elected claim 1) instead of the subject matter of elected Group II (elected claim 8).

4) Claims 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marriott (US 6386253).

Marriott is applied as in paragraph 8 of the last office action (paragraph 8 of the last office action is incorporated herein by reference). It is noted again that applicant is not entitled to the benefit of the foreign priority date.

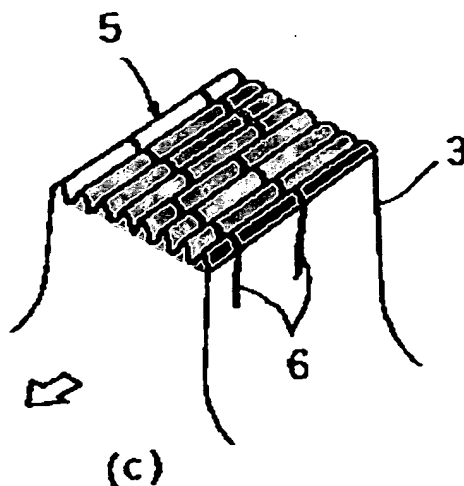
Art Unit: 1733

Japan '810

5) **Claims 8-11, 14 and 16-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Japan '810 (JP 8-332810).**

Japan '810 is applied as in paragraph 9 of the last office action (paragraph 9 of the last office action is incorporated herein by reference).

Applicant argues that the block structures of the claimed invention and Japan '810 are different in structure. The examiner disagrees. The block of Japan '810 includes "a peripheral protuberant portion" along an edge of the block. See for example figure 6(a) or figure 6(c). An enlarged copy of figure 6(c) of Japan '810 is provided below:



The yellow and orange coloring was added by the examiner to facilitate discussion of the teachings of Japan '810. A "peripheral protuberant portion" (a relatively small rib) along an edge of the block in figure 6(b) is indicated in orange. As can be seen from figure 6(b), the upper surface of the orange peripheral protuberant portion is rounded. The round shape of the orange peripheral protuberant portion (the round top of the relatively small rib) causes the height of the block to decrease toward the block end

Art Unit: 1733

edge and toward a central portion of the block. The claimed peripheral protuberant portion reads on the above note peripheral protuberant portion (small rib) of Japan '810 – applicant having presented no convincing argument and/ or evidence to the contrary. As acknowledged in the last office action, the block of Japan '810 has a multitude of relatively small ribs. However, as noted in the last office action, claim 8 fails to exclude a multitude of relatively small ribs (protuberant portions) arranged over the entire top surface of the block as shown in figures 6a or 6c of Japan '810. In other words, claim 8 fails to exclude the yellow relatively small ribs. Applicant contrasts unique sloped configuration v. simple notches and roughness shapes but fails to explain why the language in claim 8 excludes a multitude of relatively small ribs (protuberant portions) arranged over the entire top surface of the block as shown in figures 6a or 6c of Japan '810.

Applicant argues that the claimed invention and Japan '810 are different in function. As to this difference in function, applicant contrasts breaking water films and forming rough area for traction vs. equalizing the ground contact pressure. Applicant's argument is not commensurate in scope with the claims and is therefore not persuasive since none of the claims require equalizing ground contact pressure. See for example claim 8 which fails to describe equalizing ground contact pressure.

6) Claims 8-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japan '810 (JP 8-332810) in view of Japan '111 (7-257111).

Japan '810 and Japan '111 are applied as in paragraph 10 of the last office action (paragraph 10 of the last office action is incorporated herein by reference).

Kamegawa et al

7) **Claims 8-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kamegawa et al (US 5,503,208) in view of Europe '403 (EP 875403).**

Kamegawa et al and Europe '403 are applied as in paragraph 11 of the last office action (paragraph 11 of the last office action is incorporated herein by reference).

Applicant comments that Kamegawa makes no description of gradually decreasing the height of the block toward the block end edge and that Europe '403 fails to suggest gradually decreasing the height of the block toward the central portion of the block. More properly, Kamegawa teaches the claimed limitation of gradually decreasing the height of the block toward the central portion of the block and Europe '403 motivates one of ordinary skill in the art to chamfer the edges of Kamegawa's blocks (and thereby gradually decrease the height of the block toward the block end edge) to make ground contact pressure uniform - only the expected results being achieved.

Applicant argues that the concept of equalizing ground contact pressure is missing in Europe '403. Applicant is incorrect. Europe '403 teaches making ground contact pressure uniform. This characteristic of making the ground contact pressure uniform is desired by Kamegawa since Kamegawa teaches that uniform ground contact pressure lowers maximum cornering performance. Kamegawa recognized that ground contact pressure is high at the center of the block because the rubber of the block at the center has no space for escaping. In order to address the problem of high ground contact pressure at the center of a block, Kamegawa decreases block height toward the center. Europe '403 recognized that ground contact pressure is high at the edge of

Art Unit: 1733

the block. In order to address the problem of high ground contact pressure at the edge of the block, Europe '403 chamfers the block edge – i.e. decreases the block height toward the block edge. One of ordinary skill in the art would have been motivated to combine these two teachings to address the problem of high ground contact pressure at the block center and block edge in order to further improve uniformizing of ground contact pressure -only the expected results being obtained.

8) **Claims 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kamegawa et al (US 5,503,208) in view of Europe '403 (EP 875403) as applied above and further in view of Miyazaki (US 6138728).**

Miyazaki is applied as in paragraph 12 of the last office action (paragraph 12 of the last office action is incorporated herein by reference).

Remarks

9) Applicant's arguments filed 11-26-02 have been fully considered but they are not persuasive.

10) **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 1733

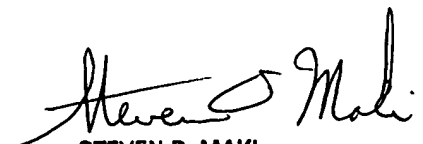
the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven D. Maki whose telephone number is 703-308-2068. The examiner can normally be reached on Mon. - Fri. 7:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Ball can be reached on (703) 308-2058. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7718 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Steven D. Maki
February 4, 2003


STEVEN D. MAKI
PRIMARY EXAMINER
~~GROUP 1300~~
AV 1733
2-4-03